

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0903-01  
Bill No.: HB 269  
Subject: Administration, Office of; Liability; State Departments  
Type: Original  
Date: March 29, 2011

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Bill Summary: This proposal limits the liability of the state regarding tort claims involving motor vehicles and dangerous conditions.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Legal Expense Fund	Unknown	Unknown	Unknown
State Road Fund	Unknown	Unknown	Unknown
Conservation Fund	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Local Government</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Office of Administration** assume this proposal makes changes to the sovereign immunity statute that would place a limit not to exceed two million dollars for all claims arising out of the operation of a motor vehicle. It does not however address per person limits. Such claims brought against the state or its public entities and against the employee for the same occurrence, the maximum recovery shall be reduced by amounts paid by the state, its entities or employees acting on their behalf.

It also makes changes to the sovereign immunity statute that would place a limit not to exceed two million dollars for all claims arising out of any dangerous condition of property and shall not exceed three hundred thousand dollars for any one person in a single accident or occurrence. Such claims brought against the state or its public entities and against the employee for the same occurrence, the maximum recovery shall be reduced by amounts paid by the state, its entities or employees acting on their behalf.

The state self-assumes its own liability protection under the state legal expense fund Section 105.711 RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the commissioner of Administration with the approval of the Attorney General. This should result in an unknown savings to the legal expense fund.

Officials at the **Missouri Department of Transportation (MoDOT)** assume this bill provides a true cap on state employee's liability in tort claims, so that a single tort plaintiff could recover no more than \$2 million in negligent operation of motor vehicle cases and no more than \$300,000 in negligent condition of property cases brought against such state employee and the state. If there are multiple tort claimants (i.e., a class action suit), the liability of the state employee and state agency is no more than \$2 million in either negligent operation of motor vehicles and negligent condition of state agency property. This would likely result in a significant, positive fiscal impact to MoDOT (at least \$100,000 annually).

Officials at the **Missouri Department of Conservation** assume this could have a positive impact with respect to tort claims. The impact is unknown.

Officials at the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

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ASSUMPTION (continued)

Officials at the **Missouri Southern State University** assume the impact can not be determined.

Officials at the **City of Kansas City** assume a significant positive impact on the City in an indeterminate amount.

Officials at the **East Central College, Lincoln University, Linn State Technical College, Metropolitan Community College, Missouri State University, Missouri Western State University, Northwest Missouri State University, Parkway School District, University of Central Missouri** and the **University of Missouri** assume that there is no fiscal impact from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>LEGAL EXPENSE FUND</b>			
<u>Savings</u> - Office of Administration cap on liability claims	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND</b>	<u><u>Unknown</u></u>	<u><u>Unknown</u></u>	<u><u>Unknown</u></u>
<b>STATE ROAD FUND</b>			
<u>Savings</u> - Dept of Transportation cap on liability claims	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON STATE ROAD FUND</b>	<u><u>Unknown</u></u>	<u><u>Unknown</u></u>	<u><u>Unknown</u></u>
<b>CONSERVATION FUND</b>			
<u>Savings</u> - Department of Conservation cap on liability claims	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON CONSERVATION FUND</b>	<u><u>Unknown</u></u>	<u><u>Unknown</u></u>	<u><u>Unknown</u></u>

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>LOCAL GOVERNMENT FUNDS</b>			
<u>Savings</u> - cap on liability claims	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENT FUNDS</b>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>
<u>FISCAL IMPACT - Small Business</u>			

No direct fiscal impact to small businesses would be expected as a result of this proposal.

#### FISCAL DESCRIPTION

This bill adds certain not-for-profit organizations to the term “public entity” as it relates to sovereign or governmental tort immunity and limits the liability of the state regarding tort claims involving motor vehicles and dangerous conditions. The bill specifies that the term “public entity” includes any not-for-profit organization that provides or contracts for ambulance services pursuant to authority granted by a city, county, town, or village and of which a majority of the governing body consists of elected officials or individuals appointed by the mayor, board of aldermen, city council, county commission, or county legislature and will be entitled to sovereign or governmental tort immunity under certain provisions.

Any liability of the state, its public entities, or their officers or employees arising out of the operation of a motor vehicle being operated within the course and scope of their office, employment, or agency with the state or its public entities must not exceed \$2 million for all claims against all the entities or individuals arising out of a single accident or occurrence. Any liability arising out of any dangerous condition of property which the officer or employee allegedly caused or contributed to cause cannot exceed \$2 million for all claims arising out of the single accident or occurrence and cannot exceed \$300,000 for any one person in a single accident or occurrence. The maximum allowable recovery for either type of liability claim that is also brought against an officer or employee of the state or its public entities must be reduced by any amount that is paid by the state, its public entities, or their officers or employees.

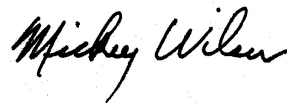
The liability of the state or its public entities for the operation of a motor vehicle is vicarious to the liability of the operator of the motor vehicle.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

JH:LR:OD

SOURCES OF INFORMATION

City of Kansas City  
East Central College  
Lincoln University  
Linn State Technical College  
Metropolitan Community College  
Missouri Department of Conservation  
Missouri Department of Transportation  
Missouri Southern State University  
Missouri State University  
Missouri Western State University  
Northwest Missouri State University  
Office of Administration  
Office of the Attorney General  
Parkway School District  
University of Central Missouri  
University of Missouri

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
March 29, 2011